

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION AT GREENVILLE

ADAM GROSCH

PLAINTIFF

VS.

NO. 2:06CV204-P-A

TUNICA COUNTY, MISSISSIPPI,
TUNICA COUNTY SHERIFF'S DEPUTY
DORNAE MOSBY, AND HWCC-TUNICA, INC.

DEFENDANTS

HOLLYWOOD'S RENEWED MOTION FOR A JUDGMENT AS A MATTER OF LAW,
OR ALTERNATIVELY, MOTION FOR NEW TRIAL, OR ALTERNATIVELY, FOR
REMITTITUR

NOW COMES HWCC-Tunica, Inc. (Hollywood), defendant in the above-entitled action, by counsel, and respectfully moves the Court:

1. Pursuant to Federal Rule of Civil Procedure 50(b), to enter an Order granting Hollywood's Renewed Motion for a judgment as a matter of law as:
 - a. The plaintiff entirely failed to submit sufficient evidence as to each necessary element for his federal claim against Hollywood for violating his Fourth and Fourteenth Amendment rights through Section 1983; and his State law claims against Hollywood for false arrest, false imprisonment, malicious prosecution, abuse of process, trespass to chattels and conversion;
 - b. The plaintiff failed to submit sufficient evidence to present the punitive damages issue for his federal 1983 claim to the jury;
 - c. The plaintiff failed to submit sufficient evidence to present the punitive damages issue for his State law claims of false arrest, false imprisonment, malicious prosecution, abuse of process, trespass to chattels and conversion to the jury.

2. Or, in the alternative, pursuant to Federal Rule of Civil Procedure 59, to enter an Order granting a new trial, a new trial as to damages, or for remittitur, as:

- a. The jury being allowed to award an unlimited amount of compensatory damages for the 1983 claim, not based on the injury evidence, was error, as the United States Supreme Court has mandated that a plaintiff cannot recover substantial,

non-punitive damages for a 1983 claim unless the award is based on the plaintiff's actual injury. See Carey v. Piphus, 435 U.S. 247 (1978) and Memphis Community School District v. Stachura, 477 U.S. 299 (1986);

- b. The exclusion of evidence and witness combined with improper jury instructions resulted in error;
- c. The trial was not fully bifurcated as required by Mississippi Code 11-1-65;
- d. The jury's award violated the "One Satisfaction Rule";
- e. The jury's award violates the due process clause of the United States and Mississippi Constitutions;
- f. The jury's award was excessive under federal common law;
- g. The jury's award was excessive pursuant to Mississippi Code 11-1-65;
- h. The jury's award for plaintiff's claims for trespass to chattels and conversion is contrary to law;
- i. The cumulative effect resulted in prejudicial error and a fundamentally unfair trial.

3. In support of its Motion, Hollywood submits the following Exhibit:

- a. Portions of Deputy Dornae Mosby's testimony from his trial transcript.
4. Hollywood also relies upon its Memorandum Brief being filed and served herewith.
5. Also, in the event the Court views the alternative prayers of relief sought as that of a singular Motion instead of combined Motions, Hollywood respectfully seeks leave of Court or waiver to exceed the thirty-five page combined limit for its Memorandum Brief and Rebuttal Brief under local rule 7.2(E), if additional pages are needed.

WHEREFORE, PREMISES CONSIDERED, for the reasons set forth in this Motion and in Hollywood's Brief, Hollywood prays that the Court enters an Order granting its Renewed Motion

for a judgment as a matter of law, or alternatively, grants it a new trial, or alternatively, a new trial as to damages, or enters an Order of remittitur.

Respectfully submitted,

/s/ A. THOMAS TUCKER III
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CERTIFICATE OF SERVICE

I, A. Thomas Tucker III, undersigned attorney for defendant, HWCC-Tunica, Inc., do hereby certify that I have this day electronically filed the foregoing Hollywood's Renewed Motion for a Judgment as a Matter of Law, or Alternatively, Motion for New Trial, or Alternatively, for Remittitur with the Clerk of the Court using the ECF system which sent notification of such filing to: RBM@McDufflaw.com, Rharris51043@yahoo.com and jhill@mitchellmcnutt.com. Parties may also access this filing through the Court's ECF/CMF system.

Certified this the 3rd day of November, 2008.

/S/ A. THOMAS TUCKER III
A. THOMAS TUCKER III

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